

Public Service Commission of Wisconsin  
Sur-surrebuttal Testimony of Lois J. Hubert  
Gas and Energy Division

Wisconsin Energy Corporation  
Docket 9400-YO-100

March 11, 2015

1 Q. Please state your name.

2 A. My name is Lois J. Hubert.

3 Q. Did you also provide direct and rebuttal testimony in this docket?

4 A. Yes.

5 Q. Are you providing any additional exhibits?

6 A. Yes. I am supporting three additional exhibits. The first is Ex.-PSC-Hubert-3c

7 CONFIDENTIAL which contains responses to Commission staff's data request regarding

8 the Chicago accelerated main replacement program. The second is Ex.-PSC-Hubert-4,

9 which is a copy of ATC Management Inc.'s (ATCMI) current Bylaws. I will also be

10 sponsoring a delayed exhibit of public comments.

11 Q. What is the purpose of your sur-surrebuttal testimony?

12 A. The purpose of my testimony is to respond to surrebuttal testimony from John Reed,

13 Allen Leverett, and Scott Lauber given on behalf of Wisconsin Energy Corporation

14 (WEC or applicant).

15 Q. Please comment on Mr. Reed's statement on Surrebuttal-WEC-Reed-5 and 16 that you

16 provided no evidence that the credit metrics of the combined company will deteriorate

17 and the company's financial strength may never be restored.

18 A. Each of the three major credit ratings agencies commented on the credit degradation that

19 will accompany the acquisition. Moody's stated in its June 23, 2014, report:

1 The negative outlook reflects the increase in WEC's holding company  
2 debt compared to the consolidated indebtedness which will hover around  
3 20% for a sustained period of time. It further considers the introduction of  
4 integration risk given WEC's limited acquisition experience and lack of  
5 track-record in operating under the Illinois regulatory environment.  
6 WEC's negative outlook considers the expected deterioration in WEC's  
7 consolidated key credit metrics. Specifically, over the next three years,  
8 the ratio of cash flow from operations before working capital adjustments  
9 (CFO pre-W/C) to debt and Retained Cash Flow (RCF) to debt is expected  
10 to fall below 19% and 15%, respectively. These metrics are more  
11 commensurate with the upper-range of the Baa-rating category . . .

12 Standard & Poor's stated in its June 24, 2014, report:

13 We expect that the incremental debt associated with this transaction will  
14 weaken WEC's financial measures. Therefore, we believe that the  
15 company's consolidated financial risk profile could fall toward the lower  
16 end of our "significant" financial risk profile category, leaving little room  
17 for underperformance related to our forecast. A one-notch downgrade  
18 would be warranted if the adjusted funds from operations (FFO)/total debt  
19 ratio failed to improve in line with our expectations, and remained below  
20 15% on a sustained basis.

21 Lastly, Fitch stated in its June 24, 2014, report:

22 Fitch expects leverage metrics of the combined entities to be weak for the  
23 current rating category and significantly weaker than WEC's stand-alone  
24 credit profile. Fitch forecasts pro-forma FFO lease-adjusted leverage in  
25 the first full year of operation to approximately 4.7x and Adjusted  
26 Debt/EBITDAR near 4.4x. WEC's stand-alone FFO lease-adjusted  
27 leverage is projected to be closer to 4x and adjusted debt/EBITDAR closer  
28 to 3.5x.

29 These are the words of the credit rating agencies. They both acknowledge that the  
30 acquisition will result in credit metric degradation and that there is the risk that credit  
31 metrics will not improve as needed to retain the current ratings.

32 Furthermore, Mr. Reed argues that "the Commission is fully able to ensure that  
33 any merger-rated credit degradation, unlikely as it is to occur, will not adversely affect

1 customers.”<sup>1</sup> However, WEC then argues against the proposed conditions to insulate the  
2 customers from any adverse effect.

3 Q Do you have any sur-surebuttal comments on ring-fencing?

4 A. Yes. Mr. Reed would appear to try to tie ring-fencing to whether it directly relates only  
5 to customer rates. Such discussion ignores the purpose of ring-fencing. Customers are  
6 best served by a healthy utility company and the purpose of ring-fencing is to provide  
7 insulation from the transactions of the holding company and other affiliates. For  
8 example, the payment of excessive dividends could reduce the financial flexibility of  
9 utility. Furthermore, as Moody’s notes above “WEC’s limited acquisition experience and  
10 lack of track-record in operating under the Illinois regulatory environment.” This added  
11 to: 1) an additional acquisition debt of \$1.5 billion; 2) WEC’s past attempt to remove  
12 excessive dividends; and 3) the infrastructure risk associated with the Peoples Gas Light  
13 and Coke Company’s infrastructure as described in the Liberty Consulting Group’s  
14 Interim Report (first sentence of the first full paragraph on Page 5 of the January 15,  
15 2015, Interim Report included as Schedule 2 of Ex.-PSC-Hubert-3c CONFIDENTIAL)  
16 supports the increase of ring-fencing.

17 Q. Have you reviewed Ex.-WEC-Lauber-10 and do you agree that proposed conditions  
18 43 and 60 are fully agreed-upon conditions?

19 A. Yes, I have reviewed Ex.-WEC-Lauber-10. I do not agree that proposed conditions  
20 43 and 60 are fully agreed-upon conditions. First related to proposed condition 60, I  
21 understand from Mr. Leverett’s testimony on Rebuttal-WEC-Leverett-15 that Local 420

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<sup>1</sup> Surrebuttal-WEC-Reed-5.

1 has proposed an extended commitment. Absent Local 420's statement that this is not a  
2 contested issue, I will treat it as a contested issue in the decision matrix.

3 Relating to proposed condition 43, I do not support the removal of language  
4 restricting the Wisconsin Operating Companies from lending money to, or guaranteeing  
5 the obligation of WEC Energy or any affiliate in the holding company, and requiring  
6 Commission approval to lend or guarantee each other's obligations. These restrictions  
7 should be memorialized in the acquisition order. If my rebuttal testimony inadvertently  
8 implied consent with the removal of such language, I misunderstood WEC's  
9 clarifications and my testimony needs to be corrected.

10 Q. Please comment on Mr. Lauber's statement on Sur-Rebuttal-WEC-Lauber-7 and 8 that "their  
11 [dividend restriction] intended purpose, which is to provide long-term average common  
12 equity ratio. So long as the utilities comply with the long-term average ratios set forth in the  
13 rate cases, any greater restrictions would amount to micro-management of utilities."

14 A. The proposed restrictions do not have an impact unless the utility is not in compliance  
15 with the long-term ratios set by the Commission in the rate case. Proposed condition  
16 37 restricts special dividends if the utility's equity drops below the average ratio set in the  
17 rate case, and proposed condition 36 further restricts dividends if the utility's equity  
18 drops below the lowest level found reasonable by the Commission in the rate case. As  
19 long as the utility is operating (on average) within the long-term range (after  
20 consideration of the dividends), this restriction at most will affect timing of dividend  
21 payment to WEC Energy.

22 Q. Do you have any further comments on Mr. Lauber's surrebuttal testimony?

1 A. Yes. Contrary to his statement on Sur-Rebuttal-WEC-Lauber-15, I have not taken a  
2 position on tracking transition costs.

3 Q. Do you have any comments on Mr. Leverett's surrebuttal regarding the company  
4 headquarters' location?

5 A. WEC has proposed including other commitments in the acquisition order, some  
6 time-limited. It is interesting that the applicant is not even proposing a limited time  
7 commitment be written into the order regarding the headquarters.

8 Q. Please comment on Ex.-PSC-Hubert-4.

9 A. Ex.-PSC-Hubert-4 is a copy of ATCMI's current Bylaws which was filed on the  
10 Commission's Electronic Regulatory Filing system this past Monday. In response to  
11 inquiries, ATCMI discovered that it had filed an expired Bylaws in response to  
12 Commission staff data request 2.01. I have compared the current bylaws with those  
13 previously provided by ATCMI<sup>2</sup> and the changes do not affect the positions I have taken  
14 on ATC-related issues.

15 Q. Do you have any comment on any required statutory basis for holding an ATCMI board  
16 seat?

17 A. Yes. Mr. Leverett implies that Great Lakes Utilities (GLU) seeks a board seat for which  
18 there is no longer statutory authority for holding. It should be noted that Mr. Leverett  
19 holds a director position for which there is no longer statutory authority for WEC to  
20 hold.<sup>3</sup> In addition, GLU does appear to be seeking a fundamental change in the way in

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<sup>2</sup> See PSC REF#: 225205.

<sup>3</sup> ATC's response to staff's request 3.02 states: "Since the Conversion, all directors have been elected by the shareholders, not appointed. While it is true that ATCMI's current Board includes an officer from each of the founding members, that is only because the shareholders have voted to do that; it is not required by statute or the bylaws." (PSC REF#: 22464)

1       which ATC is managed; a change to provide more representation from the smaller  
2       non-generating, non-IOU owners. Furthermore, Mr. Leverett says that GLU “seek  
3       authority that lacks any proportionality to GLU’s cumulative ownership interest in ATC,  
4       which is 1.59%.” Madison Gas and Electric Company’s (MGE) Gary Wolters holds a  
5       directorship and as shown on Schedule 2 of Ex.-PSC-Hubert-2; MGE Transco Investment  
6       LLC holds only 3.55 percent of ATCMI. Like WEC, there is no longer statutory  
7       authority for MGE Energy to hold a directorship on ATCMI’s board.

8   Q.     Does this conclude your sur-surrebuttal testimony?

9   A.     Yes, it does.

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